

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DERRAL FLEMING, et al.,

Plaintiffs,

v.

SCOTT PARNELL, et al.,

Defendants.

CASE NO. C13-5062 BHS

ORDER REQUESTING
RESPONSE

This matter comes before the Court on Plaintiffs Derral Fleming and MAG Enterprises, LLC's ("Plaintiffs") motion for reconsideration (Dkt. 130).

"No response to a motion for reconsideration shall be filed unless requested by the court. No motion for reconsideration will be granted without such a request." Local Rule LCR 7(h)(3). Upon review of Plaintiffs' motion, the Court requests a response from Defendants on the issue of whether a non-winding-up partner may maintain or has standing to assert claims on behalf of a dissolved partnership. While a winding-up partner was not appointed when the counterclaims were filed, it appears that only the winding-up partner may maintain a claim on behalf of the partnership for any period of time post dissolution. This would seem to include the time period that forms the basis for

1 Defendants' claim, from the time of filing the copyrights to the appointment of the
2 winding-up partner. *See* Dkt. 138 at 8. Defendants may file a response no longer than
3 five pages and no later than noon on Thursday, May 15, 2014.

4 Upon review of the trial brief, Plaintiffs contend that they "have no positive
5 Federal claims going forward." Dkt. 139 at 5. This contention is based on Defendants'
6 admission in their answer that the copyrights in question were done for the partnership
7 and are property of the dissolved partnership. *Id.* Resolution of claims requires more,
8 usually voluntary dismissal or a motion for judgment on the pleadings. Regardless, in
9 light of Plaintiffs' contention, it appears that there is a possibility that a trial will not be
10 necessary. The Court finds that the parties and the Court need additional time to
11 determine whether the Clerk shall require jurors to arrive next Wednesday. Therefore,
12 the Court resets the pretrial conference for Friday, May 16, 2014 at 10AM. The motion
13 for reconsideration and the necessity of trial will be the first issues addressed.

14 **IT IS SO ORDERED.**

15 Dated this 13th day of May, 2014.

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18 BENJAMIN H. SETTLE
United States District Judge